

LABOUR DEPARTMENT

The 28th October, 1986

No. 9/6/86-6Lab./7832.—In pursuance of the provisions of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Labour Court, Ambala, in respect of the dispute between the workman and the management of Administrator, Haryana Urban Development Authority, Chandigarh, (ii) Executive Engineer, H.U.D.A. No. 2, Panchkula:

IN THE COURT OF SHRI V.P. CHAUDHARY, PRESIDING OFFICER, LABOUR COURT, AMBALA

Reference No. 301 of 1985

SHRIMATI SUNITA JOSHI W/O SHRI AVINASH JOSHI, H. NO. 2862, SECTOR 15, PANCHKULA AND THE MANAGEMENT OF THE ADMINISTRATOR, HARYANA URBAN DEVELOPMENT AUTHORITY, CHANDIGARH (II) EXECUTIVE ENGINEER, H.U.D.A., NO. 2, PANCHKULA.

Present:—

Shri Janak Raj Sharma for workman.

Shri R. S. Sathi for respondent.

AWARD

The Hon'ble Governor of Haryana in the exercise of powers conferred,—*vide* clause (c) of sub-section (i) of section 10 of the Industrial Disputes Act, 1947 referred dispute between Sunita Joshi and the Chief Administrator, H.U.D.A. etc. to this Court. The terms of reference are as under:—

“Whether termination of services of Smt. Sunita Joshi is justified and correct; if not, to what relief is she entitled?”

Smt. Sunita Joshi through her statement of claim alleged that she was appointed as a Clerk in the pay scale of Rs. 400-10-490/540-15-600 and other allowances admissible to her,—*vide* order dated 12th August, 1981. Her appointment was for month to month and was being extended from time to time. Ultimately her services were terminated by the respondent-management, inspite of fact that she made certain representations that she be absorbed in the service of H.U.D.A. like Shri Vijay Vashnawi etc. but she was not heard and in violation of provisions of section 25 (F) her services were terminated. She has prayed for her continuity in service and with full back wages etc.

Respondent-management contested the dispute and contended that Smt. Sunita Joshi was appointed on purely temporary basis from time to time by the Superintending Engineer against existing work. As soon as the work was completed her services were terminated because it was for fixed period. It was further contended that Vijay Vanshnawi and Smt. Kalawati were appointed by Chief Engineer, H.U.D.A. who is a competent authority. They were going to be over-age, so their services were regularised.

Workman filed replication supporting her claim by refuting the contentions of the respondent-management.

On the pleadings of the parties the following issues were framed:—

Issues :

- (1) Whether termination order regarding services of Smt. Sunita Joshi is unjust and incorrect; if so, its effect.
- (2) Whether H. U. D. A. is not an Industry.
- (3) Relief.

I have heard Shri Janak Raj Sharma, Authorised Representative for workman and Shri R.S. Sathi for respondent-management and have perused the oral and documentary evidence placed on the file. My issue-wise findings are as under:—

Issue No. 1 :

In support of this issue Smt. Sunita Joshi examined herself supporting her case. In cross-examination she stated that there were certain terms & conditions in her appointment letter, in that it was clearly mentioned that her services could be terminated at any hour without any notice etc. She also admitted that her appointing authority was Superintending Engineer. She also admitted that in fact the real appointing authority of class III officials is Chief Administrator, H.U.D.A.

From the side of respondent-management Shri Gian Parkash appeared as MW-1 and Shri S.K. Mehta appeared as MW-2, both witnesses deposed that appointment of Shrimati Sunita Joshi was on purely temporary basis from time to time against existing work by Superintending Engineer. Vijay Vashnawi and Smt. Kalawati was appointed by Chief Administrator, H.U.D.A. They were going to be over-age, so their services were regularised by Chief Administrator H.U.D.A. In cross-examination MW-2 stated that at the time of termination of services of Smt. Sunita Joshi no notice, no retrenchment, compensation, no charge-sheet etc. were given to the applicant.

In view of the above evidence it is clear on the file that the Chief Administrator of H.U.D.A. is the real appointing authority of class III officials. The Superintending Engineer and his Xen, who are appointing authority of applicant Smt. Sunita Joshi are only empowered to employ a class III official on work-charge basis against the existing work. Similar is the case of Smt. Sunita Joshi. She got appointment for specific period from time to time from Superintending Engineer, H.U.D.A. against existing work. As soon the work against which she was employed was completed, her services automatically came to an end being for a fixed period.

Section 2 (oo) reads the definition of retrenchment in the case in hand. It was argued by Shri R.S. Sathi that section 2(oo) (bb) reads that if the contract of service is not renewed or the contract of service is for a limited period, in those circumstances the services of the workman shall automatically come to an end. When the period of contract will expire in that case there will be no necessity to issue notice to the workman and also there is no necessity to make payment of retrenchment compensation in other words section 25(F) is not at all attracted.

Smt. Sunita Joshi as per her own statement she joined as a clerk on work-charge basis in the scale of Rs. 400—660 from 11th September, 1981 to 25th September, 1981 up to 4th February, 1983 from 8th February, 1983 to 31st March, 1983, 7th July, 1983 to 5th August, 1983 and thereafter her services were terminated. This shows that her appointment was for a specific period from time to time, in other words at different intervals. As soon as the period of employment expired, the contract of service automatically came to an end.

Shri J.R. Sharma, authorised representative of workman drawn my attention towards a judgement dated 13th July, 1984 delivered by Shri M.S. Lubana, Presiding Officer, Labour Court, U.T., Chandigarh, in which such a termination was held violative to provisions of section 25 (F) of Industrial Disputes Act, 1947. But in that judgement section 2 (oo) (bb) was not discussed so that judgement is not applicable in the case in hand and the applicant after coming into force of amendment of section 2(oo) (bb) is not entitled to the relief claimed for. So this issue is decided against workman, in favour of management.

Issue No. 2 :

H.U.D.A. is an industry because it indulges in acquisition of land and further in sale of that particular land in the shape of industrial/residential plots and it earns profit from this business, so H.U.D.A. is an admittedly industry. So this issue is decided against respondent, in favour of workman.

Issue No. 3—Relief :

For the foregoing reasons on the basis of my findings I hold that Smt. Sunita Joshi's service contract was for a specific period. As soon as that contract expired her services automatically came to an end. In view of section 2 (oo) (bb) of the Industrial Disputes Act, provisions of section 25 (F) are not attracted in this industrial dispute, so she is not entitled to relief of reinstatement with continuity in service and with full back wages. So I pass award regarding the dispute between the parties accordingly.

V. P. CHAUDHARY,

Presiding Officer,
Labour Court, Ambala.

Endst. No. 2206, dated 29th August, 1986.

Forwarded (four copies) to the Financial Commissioner and Secretary to Government, Haryana, Labour & Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act, 1947.

V. P. CHAUDHARY,

Presiding Officer,
Labour Court, Ambala.